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DEPARTMENT FOR AF/S, AF/RSA, G/TIP

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SUBJECT: 2005 TRAFFICKING IN PERSONS REPORT - MALAWI

REF: A. 04 STATE 273089

- [1](#)B. 04 LILONGWE 1043
- [1](#)C. 04 LILONGWE 1022
- [1](#)D. 04 LILONGWE 723
- [1](#)E. 04 LILONGWE 868

[1](#)1. SUMMARY. Human trafficking was a new issue for the GOM in 2004. With the advent of increased awareness and a new government with a new approach to governance, the GOM has made significant efforts to understand and address TIP. The GOM has implemented a multi-year strategy to protect vulnerable children from exploitation, and is in the process of developing a nationwide, inter-ministerial plan to identify the nature of the problem in Malawi and possible solutions. In 2004 and 2005, the GOM provided services, including counseling and reintegration assistance, for TIP victims. During the reporting year the GOM acceded to the Optional Protocols to Prevent, Suppress, and Punish Trafficking in Persons, and legislation to specifically criminalize TIP is scheduled for the March 2005 Parliamentary session. END SUMMARY. Post presents the following information in response to refTel A request. Answers are keyed to refTel paragraphs as listed below.

[1](#)2. Paragraph 18:

[1](#)A. Malawi is a country of origin and transit for internationally trafficked men, women, and children. Numbers for each group are unknown, however the problem is not estimated to be widespread. Some incidences of trafficking have occurred within the country's borders. There is little data to quantify the magnitude of the trafficking problem in Malawi. Sources of available information include various ministries, government officials, NGOs, and church groups. Much of the information is anecdotal but is generally considered reliable. Women and children are the most vulnerable group for trafficking exploitation.

[1](#)B. There is no evidence that Malawi is a destination country for victims of trafficking. Anecdotal evidence indicates there may be some prostitutes from Zambia and Tanzania working in border areas, however these cannot be confirmed as victims of trafficking. Persons have reportedly been trafficked internally for labor and to South Africa.

[1](#)C. There have been no known changes in the direction or extent of trafficking.

[1](#)D. The Ministry of Gender, Child Welfare and Community Services, in cooperation with the Ministry of Home Affairs and the Malawi Human Rights Commission, has developed plans for a comprehensive study of the nature of human trafficking in Malawi. Limited resources may impede this project, and various donors have been approached for funding. The Ministry of Labor and Vocational Training is currently seeking to develop a nationwide analysis of migration patterns in cooperation with the National Statistics Office. No new statistical data has been made available since last year on a nationwide basis, however a few issue-based surveys (labor exploitation, for example) and region-specific studies have revealed new information about the nature of human trafficking in Malawi.

[1](#)E. Malawi is not known to be a destination point for trafficking victims. (See paragraph 2B.)

[1](#)F. Impoverished rural populations are the primary targets for traffickers, and this includes children, women, and some men. Each particular type of trafficking involves a different demographic, however poverty and lack of education seem to be common factors among them all. Victims are thought to be offered lucrative jobs either in other regions of Malawi or in South Africa. New underage recruits into prostitution are thought to be lured by other prostitutes, though not necessarily deliberately. Victims are generally moved using legitimate travel documents when necessary.

[1](#)G. There is political will at all levels of government, including the highest, to combat all forms of human

trafficking. With regard to its very limited resources, the GOM is making a good-faith effort to address trafficking. It is important to note that in 2004 TIP was a new concept to Malawian authorities. When presented with the 2004 TIP Report and Tier-Two Watch List status, the President of Malawi immediately called an inter-ministerial meeting to discuss the problem. Resultant actions are cited in detail below and in reftels B-E. In broad terms, the GOM has devoted considerable human and financial resources to combating TIP, specifically in the area of prevention.

H. GOM officials do not knowingly condone or facilitate any form of trafficking.

I. The practical limitations on the GOM's ability to address TIP are many. Malawi is one of the world's poorest countries and suffers severely from the HIV/AIDS pandemic. Thirty years of dictatorship gave way in 1994 to ten years of abject corruption, and the country is only now emerging as a possible political bright spot in a region plagued by wars, disease, and poverty. Funding for nearly all public institutions - police, hospitals, basic infrastructure - is inadequate. New corruption controls and political motivation have realigned GOM priorities, however, and reformist leadership is encouraging increased accountability in governance. The government's resources to aid victims are extremely limited, though some assistance is provided through various social programs.

J. Systematic monitoring of human trafficking is still in the initial phases of development. 2004 was a watershed year for the GOM in many regards, including awareness of human trafficking. The GOM was largely caught unaware when the issue of TIP was presented to them in the context of Tier-Two Watch List, and in the midst of a near-total political transition, has made significant efforts to organize its counter-TIP efforts and information. There are two committees which primarily monitor human trafficking in Malawi: the National Steering Committee on Orphans and Vulnerable Children and the National Steering Committee on Child Labor. Because these committees are of overlapping composition and issues, trafficking information is included in both. The GOM is currently working on a plan to better collect and disseminate such information among relevant ministries/agencies.

K. Certain elements of prostitution are illegal, however the penal code does not specifically prohibit the prostitution of oneself. Suspected prostitutes are sometimes cited for loitering or disorderly behavior. Several sections of the penal code specifically criminalize the activities of brothel owners/operators, clients, pimps, madams, and prostitute recruiters. See paragraph 4A.

3. Paragraph 19:

A. The GOM acknowledges that TIP is a problem in the country, though not in the magnitude the 2004 TIP Report would indicate (reftels D and E).

B. A wide variety of GOM agencies are involved in anti-trafficking efforts. The Ministry of Gender, Child Welfare and Community Services, the Ministry of Home Affairs and Internal Security (which includes police and immigration services) and the Ministry of Labor and Vocational Training, along with the Malawi Law Commission, The Malawi Human Rights Commission, and the Director of Public Prosecution have been the most significant.

C. During the reporting period, the Ministry of Gender launched a long-term national action plan for the protection of orphans and vulnerable children, which includes elements of anti-trafficking awareness and prevention. The Ministry of Labor has increased its efforts to prevent child labor, and both of these have been well publicized. During the reporting period, the GOM conducted awareness campaigns to address a variety of TIP's root causes, including child abuse, orphan care and life-skills, child labor, female literacy and education, and gender-based violence and equity. Campaigns to specifically address human trafficking and targeted at potential victims were conducted by the Malawi Human Rights Commission.

D. The GOM routinely conducts programs which reduce vulnerabilities for TIP. See paragraph 3C.

E. To some extent, the GOM is able to support prevention programs, but the provision of support is limited by resources and capacity to do so.

F. The relationship between the GOM and NGOs, donors, and civil society in the context of human trafficking is strong. Due to very limited resources, the GOM must often rely on partnerships with such groups in order to implement initiatives. The GOM does not place unreasonable bureaucratic requirements on groups wishing to implement

assistance and development programs. GOM officials are routinely made available to help publicize and oversee civil society initiatives.

1G. The GOM makes a considerable effort to monitor its borders, though these efforts are limited by resources and capacity. All immigration officers receive comprehensive basic training which includes identification of trafficking situations. However, as TIP is a relatively new concept, this training is essentially limited to trafficking in the most obvious sense and does not yet cover all of its possible manifestations. In the event of a TIP case, officers are able to contact other ministries/agencies for guidance.

1H. There is an inter-ministerial committee which meets regularly to discuss issues of trafficking. The GOM is currently involved in a large-scale anti-corruption movement, which encompasses all levels of government and civil service. Corruption matters are handled by the Anti-Corruption Bureau (ACB).

1I. In September 2004 the GOM hosted the International Organization for Migration (IOM) forum on human trafficking in the Southern-African region. Part of the IOM's Migration Dialogue for Southern Africa, this three-day workshop facilitated a comprehensive discussion of regional trafficking and the need for increased cooperation. The GOM has formally invited the IOM to open an office in Malawi, and several senior GOM officials attended the workshop, including the Minister of Home Affairs and Internal Security.

1J. The GOM is working on development of a national plan of action to specifically address trafficking. The development of this plan is complicated by the lack of data on all forms of human trafficking, and the GOM's initial steps in this process include a large-scale study on the problem. As noted in paragraph 2J, TIP is a relatively new concept in Malawi, and though the GOM has long been working to address some of the aspects of TIP (specifically child labor and underage prostitution) it is only now beginning to fully understand the global and local significance of the problem. As described in paragraph 3C, the GOM has developed and implemented a plan to address the root causes of trafficking, which in practice is a preventative measure.

1K. The Ministry of Gender, Ministry of Labor, and Ministry of Home Affairs are the foremost authorities on human trafficking in Malawi. In partnership with the Malawi Human Rights Commission, a constitutionally-mandated human rights watchdog, and other governmental and non-governmental organizations, these ministries have primary responsibility for anti-TIP programs.

14. Paragraph 20:

1A. The constitution prohibits slavery and servitude, and forbids any form of forced, tied, or bonded labor. According to the Malawi Law Commission, in spite of the fact that the Constitution cannot directly be used to prosecute offenders, reference to the constitution has in the past been essential in prosecuting certain cases related to trafficking. The penal code contains specific offenses which may be used to prosecute traffickers: Article 135 prohibits abduction, Article 140 prohibits the "procuration (or attempts to procure) any woman or girl to become, either in Malawi or elsewhere, a common prostitute or to leave Malawi with the intent that she may become an inmate of or frequent a brothel in Malawi or elsewhere." Article 141 prohibits the procurement and defilement of a woman or girl by threats, fraud, or administering of drugs. Article 143 criminalizes any person who detains any woman or girl against her will "that she may be unlawfully and carnally known by any man." Living off of the proceeds of prostitution and operating a brothel are illegal according to Articles 145-147. These laws are considered adequate for the prosecution of TIP, however, during the reporting period, the GOM took action to reintroduce a previous amendment which would strengthen and support the above articles in trafficking cases. The amendment is scheduled to be presented to parliament at its next sitting, in March of 2005. In addition, the Malawi Law Commission is currently developing a new law (rather than the aforementioned amendment to the existing statute) to specifically criminalize trafficking of all types.

1B. Penalties for trafficking for sexual exploitation as delineated under the existing penal code vary according to the different articles, but are largely unspecified. Penalties for child labor violations vary according to the specific charges.

1C. Penalties for rape include life imprisonment and possible death. (Note: No death sentences have been carried out in Malawi's democratic history.) Rape is a felony, while the charges listed in paragraph 4A (except abduction)

are misdemeanors.

1D. The government has prosecuted cases of human trafficking, though in the context of labor violations. In November 2004, the Ministry of Labor shifted its focus from labor education to labor enforcement, and regional labor inspectors gained the authority to initiate and conduct investigations and to press charges. Since that time, two cases of child labor exploitation have been successfully prosecuted in the central region, and a third case was dismissed due to a technicality. Since the new initiative began, the Ministry of Labor has in the central region removed and provided assistance for 13 children in exploitive situations. Data for the southern and northern regions is unavailable, however the Ministry is currently working on a comprehensive report which will include all regions of the country. No cases of trans-national or domestic TIP for purposes of prostitution or forced sexual servitude were brought to the GOM's attention during the reporting year.

1E. There is little clear information on who is behind human trafficking in Malawi. GOM officials and NGO workers speculate that internal trafficking is committed by transporters and opportunistic "businessmen" seeking to find cheap labor for farms. The few anecdotal reports of international trafficking blame local and international businesswomen and businessmen, possibly with connections to trafficking rings in South Africa and other African countries.

1F. The GOM actively investigates cases of trafficking when appropriate. Resources and capacity to conduct covert and high-tech operations are extremely limited, though would be legal.

1G. The GOM provides basic counter-TIP training to all immigration officers and police. However, the GOM is currently seeking additional training for law enforcement officers to be able to recognize the more insidious manifestations of human trafficking. Outside resources for this training will initially be necessary, however according to the Ministry of Home Affairs, will be incorporated into routine training for all officers. Labor inspectors conduct routine inspections and compliance certifications of tea and tobacco estates, the most common violators of child labor laws, and are trained to identify and investigate possible cases of child labor. Foreign adoption cases are carefully scrutinized and the prospective parents must meet a series of requirements before provisional custody can be granted.

1H. The GOM, through the Ministry of Home Affairs and Internal Security, is a member of INTERPOL and SADC's Defense and Security Organ which deals with trafficking. No information is available about the exact number of cooperative international investigations.

1I. GOM officials indicate that persons charged with trafficking in other countries would be extradited in cases where such action would be appropriate. The GOM has not been presented with these circumstances during the reporting year.

1J. There is no evidence of government involvement or tolerance of trafficking at any level.

1K. Not applicable.

1L. Anecdotal reports indicate there may be some sex tourism occurring in Malawi, primarily along the lakeshore, though do not indicate the presence of an actual "industry". Unconfirmed reports indicate that teenage boys have, in the past, provided sexual services for visiting European tourists. During the reporting year, the GOM was not presented with the opportunity to prosecute any cases related to these possible activities, though officials consistently prosecute pedophiles under a variety of laws. Since homosexuality is illegal and remains generally socially unacceptable in Malawi, prosecutions for this type of prostitution and solicitation could include charges of homosexual acts.

1M. The GOM acceded to the Protocol to Prevent, Suppress, and Punish Trafficking in Persons in February 2005. ILO Conventions 182, 29, and 105 were ratified by the GOM on November 19, 1999. The Optional Protocol to the Convention on the Rights of the Child was signed by the GOM on September 7, 2000.

15. Paragraph 21:

1A. The government provides some assistance, commensurate with its limited resources and capacity, to victims of trafficking. In partnership with NGOs, the government provided counseling, rehabilitation and reintegration

services for abused and exploited children, including those involved in prostitution. Community-based services are provided using volunteers organized by the Ministry of Gender. The GOM operates one juvenile offender rehabilitation center and one center for abused and exploited children, and has begun the process of expanding to a second facility in another region of the country. Both of the current facilities offer counseling and rehabilitation services.

1B. The GOM's resources to provide funding for NGOs are extremely limited; rather it is NGOs that assist the government in the provision of such services. However, in at least one case the GOM has provided buildings or other necessities for NGO use in anti-TIP activities.

1C. GOM officials have a solid network of NGOs to turn to for assistance with victims' services. Police are trained to handle sexual assault and child abuse cases with compassion and procedures are in place to prevent further exploitation of victims. Police stations nationwide are equipped with victims' support units, though in practice these services are limited by lack of resources.

1D. The rights of victims are generally respected. There are no reports of victims treated as criminals.

1E. The GOM uses evidence gained from victims to investigate and prosecute TIP-related cases. Victims are permitted to file civil suits against perpetrators, and civil society has in the past been quick to offer pro-bono legal services to victims involved in civil and criminal cases. Labor Inspectors and Child Protection Officers are trained to advocate for fair remuneration to employees, especially children, in labor disputes and court cases.

1F. Police protection is afforded to witnesses in any court case, as appropriate. The GOM provides some funding, commensurate with its resources and capacity to do so, for shelters for abused and exploited women and children. See paragraph 5A.

1G. The GOM has to date trained nearly 200 Child Protection Officers and placed them in each district of the country. These officers are specially trained to recognize child victims of all forms of exploitation, including trafficking. Repatriation to a victim's home district in cases of domestic labor trafficking is usually accomplished through interministerial cooperation and includes some element of community-based assistance in reintegration. Malawian Embassies abroad actively encourage Malawian expatriates to register with the consular section.

1H. Repatriated victims of trans-national trafficking generally arrive from South Africa and the GOM provides some assistance, commensurate with resources, to victims. Large numbers of illegal Malawian migrants are deported from South Africa each month at GOM expense, and it is thought that some trafficking victims could be among them.

1I. Some of the international organizations and NGOs working with trafficking victims include UNICEF, NORAD, local and international NGOs, church groups, and informal community-based volunteer groups. The GOM and such groups enjoy a mutually beneficial relationship, which enhances the benefits to victims.

16. TIP Hero

Post nominates the Minister of Gender, Child Welfare, and Community Services Joyce Banda as a hero in the fight against TIP. Banda has devoted her life to the promotion of the economic and social status of women and girls, and is an influential advocate for improving the quality of life in Malawi by empowering thousands of women to become economically self-reliant. Frustrated by red tape she encountered as a secretary, Banda founded the National Association of Business Women (NABW) in order to boost the status of all women by giving them access to credit, training, information, markets and appropriate technology. So far, NABW has mobilized more than 15,000 women countrywide, disbursed US\$2,000,000 in loans, and trained 12,000 women to run their own businesses. In 1997 Banda established the Joyce Banda Foundation for Better Girls' Education, which aims to keep young girls, especially orphans, in school. To date, Banda's foundation, which she personally provides funding for, has financed the education of thousands of children, decreasing their vulnerability for exploitation and poverty. Complete information is available at www.jbf.clcom.net. Banda has consistently worked to raise awareness of human trafficking within the GOM and has quickly and efficiently responded to the problem - and its root causes - with strong leadership and advocacy. Her influence and attention to TIP generated a significant cultural shift within the Ministry of Gender, Child Welfare and Community Service, which previously resisted any possibility of TIP in Malawi, and has resulted in the

recognized need for new prevention and protection programs throughout the nation.

17. TIP Best Practices

People Serving Girls at Risk (PSGR), a local NGO, has implemented a short-term project with post funding to assist underage prostitutes in getting off the streets. Thus far, the project has implemented an anti-TIP public awareness campaign in some of the poorest urban areas in the country. With well-designed posters, brochures, and other materials, the group has been able to raise awareness among the most vulnerable populations. PSGR has well-established links with the GOM and has taken an innovative approach to assisting young prostitutes through social reintegration and education of the support network these young people must rely upon.

18. Post POC for TIP issues is Consular/Political Officer Kiera L. Emmons, phone 265-1-773-166 ext 3411 IVG 835-3411, Fax 265-1-794-976. Time spent on TIP Report: Principal drafting, Con/Pol Officer: 25.0 hours; Research assistance, Intern: 12.0 hours; Clearance, RSO, 1.0 hour; USAID, 1.0 hour; ECON, 1.0 hour; CDA, 1.0 hour.
GILMOUR